

**REMARKS**

Claims 16-24 and 41-51 are currently pending in the application. By this amendment, claims 41-51 are added for the Examiner's consideration. The above amendments do not add new matter to the application and are fully supported by the original disclosure. For example, support for the amendments is provided in the claims as originally filed, at Figures 1 and 2, and at paragraphs [0011] through [0024] of the clean version of the substitute specification filed on June 12, 2007. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

***Interview Summary***

Applicants thank the Examiner for the courtesy extended during a personal interview between Examiner Hayes and Applicants' representative on May 8, 2008. In the interview, Applicants representative discussed aspects of the invention, and also aspects of the applied art. The Examiner agreed to reconsider the rejection.

***Information Disclosure Statement***

The Examiner refused to consider two documents (i.e., DE 19514574 and DE 3528604) submitted in the IDS filed on June 12, 2007, because English-language translations of the documents were not provided. Applicants note that this application is a national stage application of International Application PCT/DE2005/000994, and that copies of the international search report and the references at issue are present in the national stage file. As set forth in MPEP §609.03, the Examiner is required to consider these documents.

Moreover, Applicants submit that, with regard to the concise explanation requirement of 37 CFR 1.98(3), where information listed in an IDS is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office (see MPEP §609.04(a)(III)). In this application, the two documents at issue (i.e., DE 19514574 and DE 3528604) are listed in an English-language version of the international search report which indicates the degree of relevance found by the foreign office. Therefore, consideration of these documents is required.

Accordingly, Applicants respectfully request that the Examiner consider the two documents at issue (i.e., DE 19514574 and DE 3528604), and indicate such consideration by returning an initialed and signed copy of the PTO-1449 Form with the next Official Action.

### ***35 U.S.C. §103 Rejection***

Claims 16-19 are rejected under 35 U.S.C. §103(a) for being unpatentable over SCHMID (U.S. Pat. No. 3,119,373) in view of MOBLEY (U.S. Pat. No. 5,558,234).<sup>1</sup> Claim 20 is rejected under 35 U.S.C. §103(a) for being unpatentable over SCHMID and MOBLEY, and further in view of ECKERT (U.S. Pub. No. 2006/0260911). Claims 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over SCHMID and MOBLEY, and further in view of FRANKL (U.S. Pat. No. 3,982,499) and CATHERS (U.S. Pat. No. 4,111,412). These rejections are respectfully traversed.

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<sup>1</sup> The Examiner refers to claims 16-19 in paragraph 4 of the Office Action. However, claims 21 and 22 appear to be rejected in view of SCHMID and MOBLEY at paragraph 9 of the Office Action. Accordingly, Applicants assume that claims 16-19, 21, and 22 are rejected in view of SCHMID and MOBLEY.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.<sup>2</sup> Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2142. Applicants submit that no proper combination of the applied art teaches or suggests each and every feature of the claimed invention.

Claims 16-19, 21, and 22 in view of SCHMID and MOBLEY

The invention relates to a method for operating a manure transport device for livestock breeding operations. As discussed in the above-noted personal interview, in exemplary embodiments of the invention, a manure conveyor belt is guided around two drive rollers, e.g., front and rear drive rollers. Both drive rollers are driven intermittently, but run at different speeds. Thus, for example, the front drive roller is driven temporarily for a period of a few minutes rotating more quickly than the rear drive roller. After a certain rest period, i.e., stoppage of the belt, the rear return roller is driven more quickly than the front one. The roller respectively driven more quickly in a circulating manner runs more quickly than the manure conveyor belt. As such, through the friction occurring between the roller and the underside of the belt, a

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<sup>2</sup> While the *KSR* court rejected a rigid application of the teaching, suggestion, or motivation ("TSM") test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying "a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does" in an obviousness determination. *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

cleaning of the belt and a cleaning of the roller takes place. At the same time the belt has the possibility of returning again to a straight course if it has drifted out of the straight course. More specifically, independent claim 16 recites, inter alia:

driving a first return roller, about which a manure conveyor belt circulates, at a first rotational speed;  
driving a second return roller, about which the manure conveyor belt circulates, at a second rotational speed;  
wherein during a first interval the first rotational speed exceeds the second rotational speed, and during a second interval the second rotational speed exceeds the first rotational speed.

The Examiner contends that SCHMID discloses a conveyor belt at element 5, and first and second driven rollers at 8 and 9. The Examiner acknowledges that SCHMID does not disclose or suggest driving the rollers 8, 9 at different rotational speeds and varying which of the rollers rotates faster than the other. The Examiner asserts, however, that MOBLEY teaches driving first and second rollers at different speeds, and concludes that it would have been obvious to modify SCHMID in view of MOBLEY to arrive at the claimed invention. Applicants respectfully disagree for the reasons set forth below.

(i) Neither SCHMID nor MOBLEY teaches or suggests a conveyor belt circulating around first and second rollers.

The Examiner asserts that element 5 of SCHMID constitutes a conveyor belt that circulates around rollers 8, 9. Applicants respectfully disagree. As discussed in the above-noted personal interview, SCHMID's inclined plane 5 is not a conveyor belt. To the contrary, the inclined plane 5 comprises concrete sheets resting "undisplaceably" on pillars 6 (col. 1, lines 38-44). As such, the inclined plane 5 does not move, much less circulate around rollers 8, 9. Instead, in SCHMID, the pusher 7 is driven by a chain connected to rollers 8, 9, such that the pusher 7 moves across the top of the "undisplaceable" inclined plane 5. In this manner, the

pusher 7 pushes waste off the inclined plane 5 into gutter 11. Thus, SCHMID does not disclose a conveyor belt circulating around first and second rollers.

MOBLEY does not cure the deficiencies of SCHMID with respect to claim 16. That is to say, MOBLEY does not teach or suggest a conveyor belt that circulates around first and second rollers. Applicants acknowledge that MOBLEY discloses driving rotating shafts 14a-f at differing speeds; however, MOBLEY does not disclose a conveyor belt circulating around shafts. Because neither SCHMID nor MOBLEY discloses a conveyor belt circulating around first and second rollers, Applicants submit that the applied art fails to disclose or suggest *driving a first return roller, about which a manure conveyor belt circulates, at a first rotational speed, and driving a second return roller, about which the manure conveyor belt circulates, at a second rotational speed*, as recited in claim 16.

(ii) SCHMID and MOBLEY fail to disclose or suggest that during a first interval the first rotational speed exceeds the second rotational speed, and during a second interval the second rotational speed exceeds the first rotational speed.

In SCHMID, the rollers 8, 9 are toothed sprockets connected by a chain 10 (see, e.g., FIGS. 1 and 2, and lines 44-48 of col. 1). Therefore, the rollers 8, 9 will always rotate relative to one another at the same speed. Put another way, due to the chain and sprocket arrangement, it is impossible for SCHMID's roller 8 to rotate faster than roller 9 during a first interval, and then for roller 9 to rotate faster than roller 8 during a second interval.

MOBLEY discloses a sprocket and chain system similar to SCHMID. More specifically, MOBLEY discloses toothed sprockets 26a-f driven by chain 24 and a single motor 22. The size and tothing of the respective sprockets 26a-26f determines the rotational speed of each shaft 14a-14f. Thus, shaft 14a always rotates faster than shaft 14b, and it is arguably impossible for shaft 14b to ever rotate faster than shaft 14a. Thus, SCHMID and MOBLEY fail to disclose or

suggest that *during a first interval the first rotational speed exceeds the second rotational speed, and during a second interval the second rotational speed exceeds the first rotational speed*, as recited in claim 16. Moreover, neither SCHMID nor MOBLEY is arguably even capable or operating in the recited manner.

(iii) SCHMID and MOBLEY teach away from driving both rollers.

Contrary to the Examiner's assertion, SCHMID does not disclose or suggest driving roller 9. Instead, SCHMID explicitly states that the roller 9 is not driven (col. 2, lines 19-20). In SCHMID, a single motor (not shown) drives roller 8, while roller 9 serves only as a tensioning roller (not a driven roller). Because SCHMID expressly teaches that roller 9 is not driven, Applicants submit that SCHMID teaches away from any modification that would result in both rollers 8 and 9 being driven, as recited in the claimed invention. Similarly, MOBLEY only discloses a single driven shaft 14a connected to motor 22. MOBLEY'S other shafts 14b-14f are not separately driven. Therefore, MOBLEY, like SCHMID, teaches away from the Examiner's proposed modification..

Claims 17-19, 21, and 22 depend from independent claim 16, and are distinguishable from the applied art at least for the reasons discussed above with respect to the independent claim. Moreover, the applied fails to disclose or suggest many of the additional features recited in these dependent claims.

Furthermore, Applicants direct the Examiner's attention to the International Search Report and the Written Opinion of the International Searching Authority for International Application PCT/DE2005/000994, of which the instant application is a national stage application. Although the international proceedings are admittedly non-binding on the proceedings before the USPTO, Applicants note that the claims of the International Application meet the PCT requirements for novelty and inventive step.

For all of the above-noted reasons, Applicants submit that the claimed invention is allowable over the applied art, and respectfully request that the §103 rejection of claims 16-19, 21, and 22 be withdrawn.

Claims 20, 23, and 24

Claims 20, 23, and 24 are rejected under 35 U.S.C. §103(a) for being unpatentable over SCHMID and MOBLEY, and further in view of various combinations of ECKERT, FRANKL, and CATHERS. These rejections are respectfully traversed. Claims 20, 23, and 24 depend from independent claim 16, and are distinguishable from the applied art at least for the reasons discussed above with respect to the independent claim. That is to say, no proper combination of ECKERT, FRANKL, and CATHERS cures the above-noted deficiencies of SCHMID and MOBLEY with respect to independent claim 16. As claims 20, 23, and 24 include the features of independent claim 16 by virtue of their dependency from claim 16, it follows that no proper combination of the applied art renders obvious the inventions recited in claims 20, 23, and 24.

Accordingly, Applicants respectfully request that the §103 rejection of claims 20, 23, and 24 be withdrawn.

***New Claims***

New claims 41-51 are added by this amendment. These new claims depend from independent claim 16 and are distinguishable from the applied art based upon their dependency from the independent claim. Moreover, the applied art does not disclose or suggest many of the additional features recited in these claims.

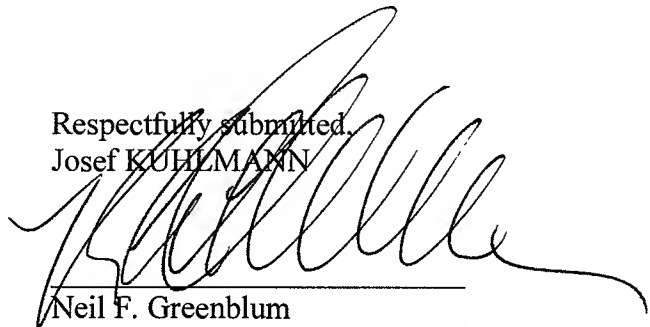
For example, no proper combination of the applied art discloses or suggests that *during the first interval the first rotational speed is such that friction occurs between the first return roller and an underside of the conveyor belt and cleaning of the conveyor belt and the first*

*return roller takes place*, as recited in claim 49. Moreover, no proper combination of the applied art discloses or suggests that *during the first interval the first return roller runs more quickly than the conveyor belt whereby, through friction occurring between the first return roller and an underside of the conveyor belt, a cleaning of the conveyor belt and the first return roller takes place*, as recited in claim 51.

### CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,  
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May 8, 2008  
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